

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

NEW EDGE NETWORK, INC.,) DOCKET NO. UT-000141
)
)
Complainant,)
v.) FIRST SUPPLEMENTAL ORDER -
) PREHEARING CONFERENCE ORDER
U S WEST COMMUNICATIONS, INC.,)
)
Respondent.)
.....)
..)

Prehearing Conference

- 1 The Commission convened a Prehearing Conference in this docket on March 27, 2000 at Olympia, Washington pursuant to due and proper notice to all interested persons before Administrative Law Judge Lawrence Berg. The Commissioners will preside at hearing.

Appearances

- 2 The following participated in the prehearing conference: New Edge Network, Inc. (New Edge), by Mark Trincherro and R. Dale Dixon, attorneys, Portland, Oregon; U S WEST Communications, Inc. (U S WEST), by Lisa A. Anderl, attorney, Seattle; and Commission Staff, by Shannon Smith, Assistant Attorney General, Olympia.

Use of Discovery

- 3 The parties requested that the discovery rule, WAC 480-09-480, be invoked in this proceeding. The Commission agrees that doing so is consistent with the nature of the proceeding and the discovery rule is invoked by this order.

Scheduling

- 4 New Edge filed its complaint with the Commission on February 2, 2000. The Commission must enter its final order with respect to the complaint on or before December 2, 2000, unless the date is extended for cause. RCW 80.04.110(3).
- 5 The Commission establishes the following schedule after considering the anticipated workload in this docket, the parties' preferences, the schedule of other proceedings pending before the Commission, and the Commissioners' schedules.

●Discovery Previously Served on U S WEST

Prehearing Conference
Motions Filed

10:00 a.m., April 6, 2000
April 13, 2000

Answers to Motions Filed

April 18, 2000

● Testimony

New Edge Opening Testimony Filed June 13, 2000

U S WEST Reply Testimony Filed July 19, 2000

New Edge Rebuttal Testimony Filed August 2, 2000

Commission Staff Testimony Filed August 2, 2000

Note: All testimony must be served on the filing date. Filing and service may be made by facsimile transmission. If testimony filed by Commission Staff is broader in scope than rebuttal to testimony previously filed, timely requests by the other parties to file additional responsive testimony will be granted.

● Discovery Subsequently Served

Discovery Cut-Off Date August 10, 2000

Discovery Motions Filed Noon, August 28, 2000

Answers to Motions Filed Noon, August 30, 2000

Note: Motions and Answers must be served by the filing deadline. Filing and service may be made by facsimile transmission.

● Prehearing Conference 10:00 a.m., August 31, 2000

● Hearing September 6-8, 2000

● Post-Hearing Briefs To Be Scheduled

- 6 The **fax** number for the Commission is **360-586-1150**. Paper copies of fax filed or served documents must be delivered to the Commission and parties on the following business day.

Protective Orders

- 7 The parties agreed that a protective order would be needed, and one will be issued. The protective order governs information produced by both U S WEST and New Edge.

Prehearing Conferences

- 8 Prehearing conferences may be scheduled as needed. The parties are requested to conduct settlement negotiations contemporaneous with case preparation. The parties are also directed to confer regarding a discovery schedule that provides New Edge with relevant information and allows U S WEST to respond in a reasonable manner. At the scheduled April prehearing conference the parties will report on the status of settlement discussions and discovery issues.

- 9 In preparation for the scheduled August prehearing conference, parties must prepare exhibit and witness lists, identify their preferred order of appearance for their own witnesses, and address any scheduling matter that affects witnesses' appearances. Parties must exchange exhibits that may be used during cross-examination and relate all exhibits to witnesses. Parties are directed to file dispositive motions and objections to exhibits in advance of the prehearing conference, as well.

Prefiled Evidence

- 10 Parties filing direct evidence must prepare it in accordance with Attachment A to this notice. The parties also must comply with other provisions in WAC 480-09-736. Confidential information must be so designated, consistent with the protective order, or confidentiality may not be protected.

Filing; Copies of Materials

- 11 An original plus thirteen (13) copies of all pleadings, motions, briefs, and other prefiled materials shall be filed with the Commission. Filings may be made by mail delivery to: Commission Secretary, Washington Utilities and Transportation Commission, 1300 S. Evergreen Park Drive, S.W., P.O. Box 47250, Olympia, Washington 98504-7250; or by hand delivery to the Commission Secretary via the Commission's record center at the Washington Utilities and Transportation Commission, 1300 S. Evergreen Park Drive, S.W., Olympia, Washington, 98504. **Both the street address and post office box are required to expedite deliveries by the U.S. Postal Service.**
- 12 In addition to filing an original and thirteen copies of all pleadings and briefs, the parties must file an electronic version on a 3-1/2 inch, high density diskette, in WordPerfect versions 5.1 or later for IBM-compatible computers, labeled with the party's name, title of the pleading, type of software used, and bearing Docket No. UT-000141. Attachments or exhibits to pleadings and briefs that do not pre-exist in an electronic format do not need to be converted.
- 13 **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the date of mailing of this document, pursuant to WAC 480-09-460(2). Absent such objections, this prehearing conference order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington and effective this day of March, 2000.

LAWRENCE BERG
Administrative Law Judge

Appendix A

I. Requirements for ALL paper copies of testimony, exhibits, and briefs

The following requirements are restated from and clarify the Commission's rules relating to adjudications.

A. All paper copies of briefs, prefiled testimony, and original text in exhibits must be

- On 8-1/2x11 paper, punched for insertion in a 3-ring binder,
- Punched with OVERSIZED HOLES to allow easy handling.
- Double-spaced
- 12-point or larger text and footnotes, Times New Roman or equivalent serif font.
- Minimum one-inch margins from all edges.

Other exhibit materials need not be double-spaced or 12-point type, but must be printed or copied for optimum legibility.

B. All electronic and paper copies must be

- SEQUENTIALLY NUMBERED (all pages). **THIS INCLUDES EXHIBITS.** It is not reasonable to expect other counsel or the bench to keep track of where we are among several hundred (or sometimes even just several) unnumbered pages.
- DATED ON THE FIRST PAGE OF EACH ITEM and on the label of every diskette. Electronic files must be designated R for revision with an ordinal number showing the revision number. If the item is a revision of a document previously submitted, it must be clearly labeled "REVISED", with the same title, and with the date it is filed clearly shown.

II. Identifying exhibit numbers; Exhibits on cross examination.

A. **Identifying exhibits.** It is essential to mark documents so you, opposing counsel, and the Commission can find them. We ask you to comply with this clarification of prior practice, based on recent experience:

- **Use the witness's initials and add an ordinal number for each exhibit.** Identify testimony with a T and confidential exhibits with a C. Example: Witness Jane Quintessentia Public. Her original testimony would be JQP-1T or JQP-1TC, her first attached exhibit would be JQP-2, etc. NEVER identify the attachments merely with

a single ordinal number, as that will provide the maximum confusion to everyone, including your witness.

B. Prepare a list of your exhibits with their title and "JQP" designation in digital form and in a format specified by the Commission. Send it to the presiding officer before the appropriate prehearing conference. That will simplify identification and ease administrative burdens.

NOTE: Be prepared to submit all of your possible exhibits on cross examination several days prior to the hearing. We will attempt to schedule a prehearing conference to deal with the exhibits as close as possible to the hearing itself, but we have administrative needs that require prefiling.